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FENIX INTERNET LLC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARCELO MUTO, and all others
similarly situated,

Plaintiff,

v.

FENIX INTERNATIONAL LIMITED;
FENIX INTERNET LLC, a Delaware
limited liability corporation,

Defendants.

CASE NO. 5:22-cv-02164

**STIPULATION TO EXTEND TIME
TO RESPOND TO FIRST AMENDED
COMPLAINT BY MORE THAN 30
DAYS**

Judge: Hon. Sunshine S. Sykes

Complaint served: November 4, 2022

Current response date: December 12, 2022

New response date: February 10, 2023

1 The parties, through their respective counsel, hereby stipulate as follows:

2 1. On October 10, 2022, Plaintiff Marcelo Muto (“Plaintiff”), commenced this
3 action in Riverside County Superior Court by filing a Class Action Complaint entitled
4 *Marcelo Muto, and all others similarly situated, v. Fenix International Limited; Fenix*
5 *Internet, LLC*. (Dkt. 1, Ex. A). Prior to attempting service of the Complaint, Plaintiff
6 filed the First Amended Complaint (“FAC”) on October 24, 2022. (Dkt. 1, Ex. A).

7 2. Pursuant to California Code of Civil Procedure § 415.40, Plaintiff served the
8 summons and FAC on Fenix Internet’s registered agent in Delaware via certified mail,
9 with an effective date of service on November 4, 2022. Declaration of Jacob M. Heath
10 (“Heath Decl.”) Ex. A, ¶ 3.

11 3. On December 5, 2022, Fenix Internet timely removed the action to this
12 Court. (Dkt. 1). Plaintiff does not intend to contest the removal of the action. Heath
13 Decl. ¶ 5. Fenix Internet’s current deadline to respond to the Complaint is December
14 12, 2022. Defendant Fenix International Limited (“FIL”) has not yet been served with
15 either the Complaint or FAC. *Id.* ¶ 4. FIL is incorporated and registered in England and
16 Wales, with its headquarters in London. *Id.* ¶ 4. Counsel for Fenix Internet will also
17 serve as counsel for FIL in this action. *Id.*

18 4. The parties’ counsel met and conferred on December 2, 2022, and December
19 6, 2022. *Id.* ¶ 5. Defendants’ counsel informed Plaintiff’s counsel that Defendants intend
20 to file a motion to dismiss the FAC. *Id.* To facilitate the efficient management of this
21 action, FIL agrees to authorize counsel to accept service of this action¹ in exchange for
22 Plaintiff’s agreement to stipulate and request that the Court set a deadline of February 10,
23 2023, for Defendants to respond to the FAC (i.e. a 60-day extension for Fenix Internet).
24 *Id.* ¶¶ 5-6.

25
26
27 ¹ FIL’s authorization for counsel to accept service shall be limited solely to acceptance of service of
28 the FAC in this matter, and is neither intended to authorize, nor be construed in any way as
authorizing, service in any other proceeding. *Id.*

5. This stipulation both helps Plaintiff's counsel avoid the time and expense of effectuating service through the Hague Service Convention, and streamlines proceedings for the Court by enabling Defendants to file a joint motion to dismiss. Moreover, the 60-day deadline is less than the 90 days that FIL would be entitled to under Fed. R. Civ. P. 4(d)(3) if it had executed a formal waiver of service.

Therefore, the parties respectfully request that the Court extend the deadline for Defendants Fenix Internet LLC and Fenix International Limited to respond to the First Amended Complaint to February 10, 2023.

Dated: December 7, 2022

**ORRICK HERRINGTON &
SUTCLIFFE LLP**

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Dated: December 7, 2022

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